

## § 40.211

(4) Disclosed by inventory as an overage,

(5) Removed subject to tax,

(6) Removed in bond,

(7) Otherwise disposed of without determination of tax,

(8) Disclosed by inventory as a shortage, and

(9) On hand, in bond, beginning of and end of month.

(b) *Report of processed tobacco.* In addition to complying with the requirements set forth in this part relating to the reporting of tobacco products, a manufacturer of tobacco products that is required to obtain authorization to engage in another business within the factory under §§ 40.47(b) and 40.72(b) must also make and submit reports as prescribed in § 40.522.

(Approved by the Office of Management and Budget under control number 1513-0033)

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5722))

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-40, 42 FR 5001, Jan. 26, 1977; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-307, 55 FR 52743, Dec. 21, 1990; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999; T.D. TTB-78, 74 FR 29409, June 22, 2009; T.D. TTB-104, 77 FR 37302, June 21, 2012]

### PACKAGES

#### § 40.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon as required by this part. No package of tobacco products shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid. No person may purchase, receive, possess (except for personal consumption), offer for sale, or sell or otherwise dispose of, after removal, any tobacco products

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that are not put up in packages bearing the marks, labels, and notices, as required under this part.

(26 U.S.C. 5723 and 5751)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. TTB-78, 74 FR 29409, June 22, 2009]

#### § 40.212 Mark.

Every package of tobacco products packaged in a domestic factory shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product subject to tax and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any trade name of the manufacturer approved as provided in § 40.65 may be used in the mark as the name of the manufacturer.) As an alternative, where tobacco products are packaged and removed subject to tax by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the package by a means approved by the appropriate TTB officer. Before using the alternative, the manufacturer shall notify the appropriate TTB officer in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the appropriate TTB officer shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]